

## NINTH ORDINARY SESSION

### *In re* GOODRUM

#### Judgment No. 55

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the World Health Organization drawn up by Mrs. Winifred Goodrum on 9 May 1961 and brought into conformity with the requirements of the Rules of Court on 20 June 1961, and the Organisation's reply of 2 August 1961;

Considering Article VII of the Statute of the Tribunal and Staff Rules 1030, 1040 and 1050 of the World Health Organization;

After examining the documents in the dossier, no oral proceedings having been either requested by the parties or ordered by the Tribunal;

Considering that the material facts of the case are as follows:

A. Complainant was appointed in the Organisation's Regional Office for Africa in Brazzaville for a period of two years commencing on 20 March 1958, on the terms stated in a formal offer dated 4 February 1958 to which a copy of the Staff Regulations and Rules of the Organisation was appended. On 4 January 1958, prior to her appointment, complainant underwent a complete medical examination performed by her medical attendant in Cape Town. On the basis of the results of this examination which were communicated to the Director of the Medical Service of the Organisation in Geneva, the latter issued a certificate dated 7 March 1958 informing complainant that the before-mentioned medical examination which she had undergone was regarded as satisfactory for the purposes of her appointment; complainant asserts, however, that she did not have cognizance of this certificate until April 1960. Complainant entered upon her duties at Brazzaville on 1 April 1958.

B. On 24 May 1958, complainant obtained from a physician in Brazzaville a certificate stating that she was in need of surgical treatment. On 31 July, complainant requested three months' leave of absence to return to England for the surgical treatment referred to in the before-mentioned certificate, and leave was authorised subject to the submission of a medical certificate. Complainant left Brazzaville on 14 August and, on 25 September 1958, she informed the Chief of Personnel at Headquarters in Geneva that she was undergoing medical treatment in Johannesburg. On 15 October 1958, the Chief of Personnel was informed by the Director of the Medical Service that a proper medical certificate had been submitted and that complainant was entitled to sick leave as from 1 August 1958.

C. As a result of further communications from complainant's medical attendant, the Director of the Medical Service advised that complainant's sick leave should terminate on 15 January 1959 and stated that he concurred with the view expressed by complainant's medical attendant that complainant should not resume work in a tropical country. Consequently, complainant was informed, on 9 February 1959, that her appointment would be terminated for health reasons, the requisite period of notice to run from 20 February. This notification was sent to complainant's address in England, and a copy of it was sent to Cape Town on 24 February 1959.

D. On 2 March 1959, complainant acknowledged receipt of the notification of 9 February, and inquired whether the cost of medical treatment after the termination of her appointment would be met by the Organisation's Sickness Insurance Fund and what steps the Organisation would take to compensate her in respect of her disability. On 14 April, complainant was informed that there would be no reimbursement for medical expenses incurred after the termination of her appointment but that her claim for compensation would be submitted to the Advisory Committee on Compensation Claims. On 13 April 1960, the Director-General approved the recommendation of the Advisory Committee on Compensation Claims that complainant's condition should not be regarded as attributable either to the performance of her official duties on behalf of the Organisation or as the result of any local hazard. On 25 April 1960, complainant was informed that her claim for compensation was rejected.

IN LAW

1. Article VII, paragraph 2 of the Statute of the Tribunal provides that to be receivable, a complaint must have been filed within ninety days after the complainant was notified of the decision impugned.

2. On the face of the record, the decision complained of is a certificate of 7 March 1958 declaring the complainant medically fit for appointment on the basis of the medical examination undergone by complainant in Cape Town on 4 January 1958, and complainant appears to challenge the validity of her appointment as a result of the Organisation's failure to submit her to medical examination by a staff physician in Brazzaville to determine her fitness for duty. Whether or not complainant had cognizance of the certificate of 7 March 1958 before the event, the decision not to submit her to a further medical examination became effective and final when on 1 April 1958 complainant was required to commence work at Brazzaville without further medical examination, and it is as from that date that the time limit for the submission of a complaint on that account began to run.

3. According to the prayer for relief, however, complainant appears to claim compensation for termination of employment for medical reasons due to the failure of the Organisation to determine in Brazzaville whether she was fit for employment. Such claim can be interpreted either as a complaint in respect of improper termination of employment or as one for compensation for illness arising out of and in the course of employment, although in the circumstances of the present case, the two claims are mutually exclusive. The decision to terminate complainant's appointment was notified on 9 February 1959 and the decision to reject complainant's claim for compensation was notified on 25 April 1960.

4. The complaint was drawn up on 9 May 1961 and on whichever of these grounds her claim is based, it was not filed within the time limit provided for under Article VII, paragraph 2 of the Statute of the Tribunal, and it is, therefore, not receivable. Whether or not there is any merit in the argument, it is to no purpose that complainant alleges that she was unaware of the conditions under which she had access to the Tribunal, since she had been provided with a copy of the Staff Rules of the Organisation, Articles 1040 and 1050 of which make provision both for access to the Tribunal and for the availability of the Statute of the Tribunal.

## DECISION

The complaint is dismissed.

In witness of this judgment, delivered in public sitting on 6 October 1961 by the Right Hon. Lord Forster of Harraby, K.B.E., Q.C., President, Mr. Maxime Letourneur, Vice-President, and Mr. André Grisel, Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Lemoine, Registrar of the Tribunal.

Signatures:

Forster of Harraby  
M. Letourneur  
André Grisel  
Jacques Lemoine